THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P. NO. 14705 of 1997

Dated: 08-02-2007

Between:-

1. A.G. Hardikar s/o late G.V. Hardikar, aged 63 years, occ: Retired employee, Hyderabad 500 044.
2. Mir Mohd Ali Quadri s/o late M. Vazir Ali, aged 64 years, R/o Chappel Road, Hyderabad,
3. Sri A. Surveshwar Reddy s/o late Sri Narayan Reddy, aged 62 years, R/o Malakpet, Hyderabad,
4. T.V.Hemchander s/o late Sri Anand Rao, aged 63 years, R/o Domalaguda, Hyderabad.

…Petitioners

And

The A.P. State Warehousing Corporation, Hyderabad, represented by its Managing Director.

…Respondents.

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P. NO. 14705 of 1997

O R D E R

The petitioners herein, four in number, claim interest on their contributory provident fund at rates on par with those granted by the State of Andhra Pradesh to its employees. They claim that this benefit be extended together with interest on such revised amounts at 18% compound interest till the date of payment and costs.

The grievance of the petitioners herein is that, while the contribution required to be paid by employees of the respondent-corporation, an undertaking controlled by the Government of Andhra Pradesh is on par with employees of the State Government, insofar as payment of interest on the provident fund contributions is concerned, the State Government pays more for its employees than what is being paid to employees of the respondent-corporation. Reference is made to Rule 45, of the Andhra Pradesh Civil Supplies Corporation Rules in this regard.

The Andhra Pradesh State Warehousing Corporation is governed by the provisions of the Warehousing Corporations Act, 1962. In exercise of the powers conferred under Section 42 (1) of the Warehousing Corporations Act, 1962 and with the previous sanction of the Government of Andhra Pradesh, the Andhra Pradesh State Warehousing Provident Fund Regulations, 1965 were made which

were notified in G.O.Ms. No. 2454, Food and Agriculture, dated 30th September, 1965. Regulation 2 (i) thereunder defines 'Fund' to mean the Warehousing Corporation Employees' provident fund. Regulation-5 deals with the object of the fund and Regulation 6 deals with its administration. Regulation 6 reads thus:

> "(i) The fund shall be held by the Trustees and shall be administered by the Trustees by constituting themselves into a Board of Trustees comprising of the Managing Director, a Director nominated by the Executive committee from time to time and the secretary together with one employee of the corporation to be nominated by the Managing Director,
> (ii) All moneys belonging to the Fund shall be invested in securities of the nature specified in clause (a), (b), (c) or (e) of section 20 of the Indian Trusts Act, 1882 (2 of 1882), or in a post office savings Bank Account in India."

Regulation 8 relates to subscription to the fund and reads thus:

> "Every employee of the Corporation shall subscribe to the Fund:
>
> i) An employee, appointed on time-scale/regular basis, shall subscribe to the provident Fund from the date of his joining the service.
> Provided that nothing in this sub-regulation shall apply to an employee employed on contract unless the terms of his contract otherwise provide,
> ii) an employee excluded by clause (i) an any other person in receipt of other than casual remuneration from the corporation may subscribe to the fund if so permitted by the committee."

Regulation 9 relates to the agreement to be executed by a subscriber and thereunder, every employee on becoming a subscriber to the fund shall execute an agreement in the form setout in Appendix-I. Under Regulation 10 (a), a subscriber shall subscribe to the fund at 10% of his monthly salary with effect from 01-06-1989 and 12% with effect from 22-09-1997. Regulation 11 relates to the Corporation's

contributions and thereunder the Corporation is required to contribute to the fund every month at 10% with effect from 01-06-1989 and 12% with effect from 22-09-1997 of the salary of each subscriber as employer's contribution to the fund. Regulations 12 and 13 relate to Interest and Accounts and Audit of the fund and read thus:

" **12: INTEREST**

The trustees shall, on the 31st day of March every year or as soon thereafter as is possible.

(i) determine and notify with the approval of the Chairman of the Corporation the rate at which interest shall be allowed during the year on all depositors standing to the credit of every subscriber to the fund;

(ii) prepare an account of the total interest accrued and received investment of the Fund during the year.

(iii) Credit the amount of interest due to every subscriber based on the balance monthly products of each subscriber's account during the preceding year. The interest allowed shall not be less than 3 ½ % pay; and

(iv) If the amount earned as interest in any year is not sufficient to credit interest at the rates fixed by the trustees, the deficiency shall be made good by the Corporation.

13. ACCOUNTS AND AUDIT OF THE FUND

i) The accounts of the Fund shall be maintained by the Committee at the Corporation's Head Office and shall be made upto the 31st March of each year. An account shall be maintained for each subscriber of the Fund showing separately.

(a) the amount of this own subscription with the amount of interest thereon and

(b) the amount of contribution of the Corporation with the amount of interest thereon. The crediting to the subscriber's account, the Corporation's contribution and interest thereon shall not confer on any subscriber any right in respect thereof except such is as expressly provided by these Regulations. The trustees shall get the accounts of the Fund prepared and audited annually and a copy of such audited statement of accounts shall be furnished to the corporation and shall be made available to the subscriber. The Committee shall prepare and submit to the Corporation not later than the 30th

September in every year a statement of account of the Fund as on the 31st March of the preceding year duly audited and certified by the auditors. A copy of such statement shall be made available to the subscribers.

(ii) The accounts of the Fund shall be audited every year by the same authority which audits the accounts of the Corporation.

(iii) An account of each member will be maintained in the prescribed Form No.41 of the Income Tax Rules.

(v) The trustees shall furnish to the Income Tax Officer specified in sub-rule (2) of Rule 32 of the Income Tax Rules an abstract for the financial year or other applicable accounting period of the individual account of each employee participating in the Provident Fund in respect of whom a Return is required to be furnished under Sub-Rule (4) of Rule 35 of the Income Tax Rules, not later than the 15th day of June in each year or any other subsequent date fixed by the Income Tax Officer. It shall be in the form prescribed in Sub-Rule 13(iii) of this Rule, and shall show only the totals of the various columns thereof for the Financial year or other Accounting period. It shall also give an account of any temporary withdrawals by the employee during the year and of the repayment thereof. The trustees shall also furnish in respect of the other employees participating in a provident fund who were allowed withdrawals under rule 15 to 17 who came within the purview of Sub- Rule (1) of Rule 75 of the Income Tax Rules.

It is clear from a reading of Regulation 12 that, on the 31st March of each year, the trustees are required to determine and notify, with the approval of the Chairman of the respondent-corporation, the rate at which interest shall be allowed during the year on all deposits standing to the credit of every subscriber to the fund, and if the amount earned as interest in any year is not sufficient to credit interest at the rates fixed by the trustees, their deficiency shall be made good by the Corporation.

It is not the case of the petitioners herein that the interest credited to their account is less than the interest determined and

notified by the trustees. It is not even their case that different rates of interest are being paid to different sections of employees of the respondent-corporation. The petitioners seek to compare employees of the respondent-corporation with employees of other State Level Public Sector Undertakings and the employees of the State and Central Governments. As noted above, the Andhra Pradesh State Warehousing Corporation Employees' Provident Fund Regulations, 1965 are statutory regulations and have the force of law. There is presumption about its constitutionality. The validity of these regulations are not under challenge in this writ petition. In the absence of any allegation regarding violation of these statutory regulations, the petitioners cannot compare employees of the respondent-corporation with those working in other corporations or the employees of the State and Central Governments or claim party. Since employees of the respondent-corporation form a distinct class, the claim based on an alleged infringement of Articles 14 and 16 of the Constitution of India does not meric acceptance.

The writ petition fails and is accordingly dismissed. However, in the circumstances, without costs.

RAMESH

RANGANATHAN, J
Dated: 08-02-2007
vp